

REMARKS

In the non-final Office Action, the Examiner objects to the drawings as allegedly failing to comply with 37 CFR 1.121(d); rejects claims 14 and 22 on the grounds of non-statutory obviousness-type double patenting as allegedly being unpatentable over claim 1 of U.S. Patent No. 6,731,651 to Tatsuki (hereinafter "TATSUKI"); rejects claims 14-15 and 31-45 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention; rejects claims 14-15, 22-31, 35-43, and 45 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,623,493 to Kagemoto (hereinafter "KAGEMOTO"); and objects to claims 32-34 and 44 as being dependent upon a rejected base claim but would be allowable if rewritten in independent form. Applicant respectfully traverses these rejections.¹

By way of this Amendment, Applicant amends claims 14, 31, 33 and 36 to improve form, and cancels claims 32 and 38 without prejudice or disclaimer. Applicant also submits a replacement sheet of drawings including Fig. 2, and a terminal disclaimer. No new matter has been added by the present amendment. Claims 14-15 and 22-31, 33-37, and 39-45 are pending.

At the outset, Applicant notes with appreciation the indication of allowable subject matter.

¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, reasons for modifying a reference and/or combining references, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserve the right to analyze and dispute such assertions/requirements in the future.

The drawings stand objected to as allegedly failing to comply with 37 CFR 1.121(d). The Examiner alleges that the letterings of Fig. 2 are small and not readable (Office Action, p. 2). While not necessarily agreeing with the Examiner, Applicant hereby submits a replacement sheet including Fig. 2 to address the Examiner's concern and in order to expedite prosecution.

For at least the foregoing reasons, Applicant submits that the drawings comply with the requirements of 37 CFR 1.121(d). Accordingly, Applicant respectfully requests that the objection to the drawings be reconsidered and withdrawn.

Claims 14 and 22 stand rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claim 1 of TATSUKI. Applicant respectfully traverses this rejection.

While not acquiescing in the Examiner's rejection of claims 14 and 22, a terminal disclaimer has been filed concurrently with this response in order to expedite prosecution. Accordingly, Applicant respectfully requests that the rejection of claims 14 and 22 based on nonstatutory obviousness-type double patenting over claim 1 of TATSUKI be withdrawn.

Claims 14-15 and 31-45 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully traverses this rejection.

The Examiner alleges that the phrase "de-multiplexing the received cell into a signaling cell and a voice cell" recited in claims 14 and 36 is not clear because there is no need to de-multiplex the cell since only one cell is received (Office Action, p. 4).

Without acquiescing in the Examiner's rejection, Applicant has amended claims 14 and 36 to recite "de-multiplexing components of the received cell into a signaling cell and a voice cell", to address the Examiner's concerns and in order to expedite prosecution.

For at least the foregoing reasons, Applicant submits that amended claims 14 and 36 are definite under 35 U.S.C. § 112, second paragraph. Accordingly, Applicant respectfully requests that the rejection of claims 14 and 36 under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

The Examiner alleges that the phrase "operate cell to produce a first signaling cell and a first voice cell" recited in claims 31 and 45 is vague and indefinite since it is not clear how a cell can produce a signaling cell and a voice cell (Office Action, p. 4). Applicant respectfully disagrees.

The Examiner's allegation that it is indefinite that a cell can produce a signaling cell and a voice cell is directed to the breadth of the claims, and not to the indefiniteness of the claims. The Examiner seems to imply indefiniteness because of the allegation that the term "cell" implies two different meanings. However, claim 31, for example, recites "a receiver section to operate on an incoming cell to produce a first signaling cell and a first voice cell." The above feature of claim 31 refers to three different components, since the feature "incoming cell" differs from a "signaling cell" and a "voice cell." The Examiner is thus addressing Applicant's choice of terminology.

Therefore, this is an issue of breadth and not indefiniteness. It is black letter patent law that the breadth of a claim is not to be equated with indefiniteness. *In re Miller*, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). See also M.P.E.P. § 2173.04. Additionally, a fundamental principle contained in 35 U.S.C. §112, second paragraph, is

that Applicants are their own lexicographers and may "define in the claims what they regard as their invention essentially in whatever terms they choose as long as any special meaning assigned to a term is clearly set forth in the specification." M.P.E.P. § 2173.01. Applicants respectfully submit that the features of the claims at issue have been broadly defined, as clearly permitted under 35 U.S.C. §112, second paragraph.

For at least the foregoing reasons, Applicant submits that claims 31 and 45 are definite under 35 U.S.C. § 112, second paragraph. Accordingly, Applicant respectfully requests that the rejection of claims 31 and 45 under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

Claims 14-15, 22-31, 35-37, 39-43, and 45 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by KAGEMOTO. Applicant respectfully traverses this rejection.

A proper rejection under 35 U.S.C. § 102 requires that a reference teach every aspect of the claimed invention. Any feature not directly taught must be inherently present. See M.P.E.P. § 2131. KAGEMOTO does not disclose the combination of features recited in Applicant's claims 14-15, 23-31, 35-37, 39-43, and 45.

For example, amended claim 14 is directed to a voice relaying method that includes receiving a cell, de-multiplexing components of the received cell into a signaling cell and a voice cell, disassembling the voice cell into a voice signal and disassembling the signaling cell into a first signaling signal, detecting whether a relay switch operation is being carried out, assembling the voice signal into a voice cell, and producing a signaling cell based on the first signaling signal, and transmitting, to a network, a cell produced by multiplexing the signaling cell and the voice cell which are assembled

during the assembling, wherein the disassembling includes adding an identification signal to the voice signal to produce a first voice signal and sending the first voice signal to a switch; and wherein the detecting includes detecting that the relay switch operation is being carried out when the first voice signal is received from the switch. KAGEMOTO does not disclose or suggest this combination of features.

For example, KAGEMOTO does not disclose or suggest detecting whether a relay switch operation is being carried out, as recited in claim 14. The Examiner relies on col. 10, line 65 through col. 11, line 30 of KAGEMOTO for allegedly disclosing this feature (Office Action, p. 4). Applicant disagrees with the Examiner's interpretation of KAGEMOTO.

Col. 10, line 10 through col. 11, line 30 of KAGEMOTO discloses a network adapter including (a) interface means for demultiplexing a time-division multiplexed signal which is transmitted from the synchronous mode transmission path and transmitting the same to a plurality of first output lines, (b) cell adaptation means for setting virtual channels which are varied with the first output lines and storing the demultiplexed signals in information fields of cells belonging to the virtual channels, thereby carrying out cellularization, (c) integration means for transmitting the cellularized signals to a second output line, and (d) a multiplexer having the second output line as an incoming line and the asynchronous mode transmission path as an outgoing line, and the multiplexer is a multiplexer in the asynchronous transfer mode network for multiplexing a plurality of demultiplexed virtual channels transmitting voice signals to a multiplexed virtual channel, while the multiplexer comprises (d-1) a table capable of registering correspondences between virtual channel identifiers of the plurality of demultiplexed

virtual channels transmitting voice signals among virtual channels which are set on the incoming line and positions in an information field of a multiplexed cell belonging to the multiplexed virtual channel which is set on the outgoing line, and (d-2) cell multiplexing means for receiving demultiplexed cells which are inputted from the incoming line and storing signals in information fields of the demultiplexed cells belonging to the plurality of demultiplexed virtual channels in prescribed positions of the information field of the multiplexed cell on the basis of the correspondences which are registered in the table for transmitting the multiplexed cell to the outgoing line.

Applicant submits that none of the elements disclosed by KAGEMOTO can be reasonably interpreted as being configured for detecting whether a relay switch operation is being carried out, as recited in claim 14. If this rejection is to be maintained, Applicant respectfully requests that the Examiner indicate which element(s) from the above section of KAGEMOTO the Examiner is relying on for allegedly disclosing the above feature of claim 14, and how said element(s) can detect whether a relay switch operation is being carried out.

For at least the foregoing reasons, Applicant submits that claim 14 is not anticipated by KAGEMOTO. Accordingly, Applicant respectfully requests that the rejection of claim 14 under 35 U.S.C. 102(b) based on KAGEMOTO be reconsidered and withdrawn.

Claim 15 depends from claim 14. Therefore, claim 15 is not anticipated by KAGEMOTO for at least the reasons set forth above with respect to claim 14. Accordingly, Applicant respectfully requests that the rejection of claim 15 under 35 U.S.C. 102(b) based on KAGEMOTO be reconsidered and withdrawn.

Independent claim 22 is directed to a network device that includes a receiver section to receive an incoming cell, a disassembler section to produce a voice signal from the incoming cell, a detection section to determine if an operation is being performed on behalf of the incoming cell, an assembler section to produce a cell that includes the voice signal if the operation is being performed, and an identification section to add an identification signal to the produced cell before making the produced cell available to a network. KAGEMOTO does not disclose or suggest this combination of features.

For example, KAGEMOTO does not disclose or suggest a detection section to determine if an operation is being performed on behalf of the incoming cell, as recited in claim 22. The Examiner relies on col. 11, line 40 through col. 12, line 5 of KAGEMOTO for allegedly disclosing this feature (Office Action, p. 5). Applicant disagrees with the Examiner's interpretation of KAGEMOTO.

Col. 11, line 40 through col. 12, line 5 of KAGEMOTO discloses a network adapter that includes a) a demultiplexer having an incoming line which is connected to the asynchronous mode transmission path, and the demultiplexer is a demultiplexer in the asynchronous transfer mode network for demultiplexing a multiplexed virtual channel transmitting voice signals to a plurality of demultiplexed virtual channels, while the demultiplexer comprises (a-1) a table capable of registering correspondences between virtual channel identifiers of the plurality of demultiplexed virtual channels transmitting voice signals which are set on an outgoing line and positions in an information field of a multiplexed cell belonging to the multiplexed virtual channel among virtual channels which are set on the incoming line, and (a-2) cell demultiplexing means for receiving the multiplexed cell which is inputted from the incoming line and distributing a signal in an

information field of the received multiplexed cell to information fields of the plurality of demultiplexed cells on the basis of the correspondences which are registered in the table for transmitting the plurality of demultiplexed cells to the outgoing line, and the network adapter further comprises (b) distribution means for distributing cells which are outputted on the outgoing line of the demultiplexer to output lines which are varied with virtual channels and transmitting the same, (c) adaptation means for taking out the signals from the information fields of the cells which are transmitted to the output lines of the distribution means, and (d) interface means for time-division multiplexing the signals as being taken out for transmitting the same to the synchronous mode transmission path.

Applicant submits that none of the elements disclosed by KAGEMOTO can be reasonably interpreted as a detection section to determine if an operation is being performed on behalf of the incoming cell, as recited in claim 22. If this rejection is to be maintained, Applicant respectfully requests that the Examiner indicate which element(s) from the above section of KAGEMOTO the Examiner is relying on for allegedly disclosing the above feature of claim 22.

For at least the foregoing reasons, Applicant submits that claim 22 is not anticipated by KAGEMOTO. Accordingly, Applicant respectfully requests that the rejection of claim 22 under 35 U.S.C. 102(b) based on KAGEMOTO be reconsidered and withdrawn.

Claims 23-30 depend from claim 22. Therefore, these claims are not anticipated by KAGEMOTO for at least the reasons set forth above with respect to claim 22. Accordingly, Applicant respectfully requests that the rejection of claims 23-30 under 35 U.S.C. 102(b) based on KAGEMOTO be reconsidered and withdrawn.

Independent claim 31 has been amended to incorporate the features of claim 32. The Examiner indicated that claim 32 would be allowable if rewritten in independent form including all of the limitations of the based claim and any intervening claims (Office Action, p. 10). Therefore, claim 31 is in condition for immediate allowance.

Claims 33-35 depend from claim 31. Therefore, Applicant submits that these claims are also in condition for immediate allowance.

Amended independent claim 36 recites features similar to, yet possibly of different scope than, features recited above with respect to claim 14. Therefore, Applicant submits that claim 36 is not anticipated by KAGEMOTO for at least reasons similar to the reasons set forth above with respect to claim 14. Accordingly, Applicant respectfully requests that the rejection of claim 36 under 35 U.S.C. 102(b) based on KAGEMOTO be reconsidered and withdrawn.

Claims 37 and 39-43 depend from claim 36. Therefore, these claims are not anticipated by KAGEMOTO for at least the reasons set forth above with respect to claim 36. Accordingly, Applicant respectfully requests that the rejection of claims 37 and 39-43 under 35 U.S.C. 102(b) based on KAGEMOTO be reconsidered and withdrawn.

Independent claim 45 recites features similar to, yet possibly of different scope than, features recited above with respect to claim 22. Therefore, Applicant submits that claim 45 is not anticipated by KAGEMOTO for at least reasons similar to the reasons set forth above with respect to claim 22. Accordingly, Applicant respectfully requests that the rejection of claim 45 under 35 U.S.C. 102(b) based on KAGEMOTO be reconsidered and withdrawn.

In view of the foregoing amendments and remarks, Applicant respectfully requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims. As indicated above, Applicant respectfully submits that the present amendment places the application in immediate condition for allowance.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY SNYDER, L.L.P.

By: /Viktor Simkovic, Reg. No. 56,012/
Viktor Simkovic
Registration No. 56,012

Date: May 6, 2008

11350 Random Hills Road
Suite 600
Fairfax, Virginia 22030
(571) 432-0800

Customer Number: 44987

Attachments: 1 new sheet of drawings including Fig. 2
Terminal Disclaimer